

How Purdue Pharma High Court Case May Change Bankruptcy

Brian Shaw and David Doyle co-authored a Law360 article on the potential implications of the imminent Supreme Court decision in the Purdue Pharma bankruptcy case. The ruling may result in the elimination of third-party releases in Chapter 11 cases. Purdue Pharma's Chapter 11 plan confirmation in 2021 sparked concerns regarding the consequences of terminating the use of the tools. The Supreme Court's ruling is expected before the summer break, and would most significantly impact cases involving mass torts or allegations of insider wrongdoing if eliminated.

The opinion could result in more impactful effects on the entire bankruptcy system, such as that as a matter of law, third-party releases are not provided for under the U.S. Bankruptcy Code, thus deeming them unlawful, and will set a standard for limiting that which is set forth in the Bankruptcy Code. Critics also believe restrictions will limit abuse of the Bankruptcy Code. Other equitable concepts are at risk in light of the pending Purdue Pharma decision, including equitable mootness, derivative standing, shotgun prepackaged bankruptcies, and looking past a debtor that manufactures venues. Such concepts are derived from the implicit authority of the Bankruptcy Code and have often been reasons to call for abuse. Critics argue that while these equitable tools may have been historically utilized and perceived to further the Bankruptcy Code's purpose, their lack of explicit authorization in the code may lead to their demise, as they face scrutiny from both the Supreme Court and Congress amidst populist sentiments and concerns about abuse within the bankruptcy system.

To read more, [click here](#).



David Doyle

Member

daviddoyle@cozen.com
Phone: (312) 474-1648
Fax: (312) 382-8910



Brian Shaw

Member

bshaw@cozen.com
Phone: (312) 474-1644
Fax: (312) 382-8910

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